

REMARKS

The Examiner's attention to the present application is noted with appreciation.

The Examiner rejected claims 1-28, 32, 33, and 35-42 under 35 U.S.C. 102(b) as being anticipated by Littau et al. The Examiner also rejected claims 29-31 and 34 under 35 U.S.C. 103(a) as being unpatentable over Littau, et al., and rejected claims 43-77 under 35 U.S.C. 103(a) as being unpatentable over Littau et al. in view of Kroko. Such rejections are respectfully traversed. The Examiner is correct in his assertion that Littau states that diffraction structures in a field have the same focus settings. However, neither Littau et al. nor Kroko in any way teach or suggest all of the limitations of the present claims.

Claim 1 requires that the *variability* of diffraction signatures obtained from a *plurality* of diffraction structures in a given field, all of which structures have the same focus value, be compared with the variability associated with fields having other focus values. Claim 43 requires that the variabilities associated with multiple wafers are compared. These limitations are not taught by Littau et al. or Kroko; neither reference teaches measuring the variability of *groups* of diffraction signatures taken from diffraction structures, whether the structures are in one of multiple fields or on one of multiple wafers.

It is important that *variability*, as taught by the present invention, be distinguished from *variation*, as taught in the prior art. The art cited teach that the variation between diffraction signatures, each taken at different focus steps, is measured and examined. For example, Littau et al. clearly teach that the difference or variation between signatures taken at successive focus steps is analyzed; see column 11, lines 18-65.

However, as taught in the present specification, variability is a statistical analysis of the uniformity of a given set or *plurality* of signatures taken at the same focus setting; see, for example, page 25, lines 8-20. There is no measurement of the difference of any two successive diffraction signatures, which is what is taught by Littau et al. Further, applying the method of Littau et al., one cannot recreate the methods of

the methods of the present invention, since in the present invention a statistical measure of the uniformity of the entire set of diffraction signatures is taken, not of successive individual signatures.

Thus, even though, as the Examiner states, Littau et al. disclose multiple gratings having same focus values as an alternative embodiment, Littau et al. do not teach measuring the variability of a set of diffraction signatures taken at the same focus setting, nor would it be obvious to do so from the teachings of Littau et al., either alone or in combination with those of Kroko.

An earnest attempt has been made to respond to each and every ground of rejection advanced by the Examiner. However, should the Examiner have any queries, suggestions or comments relating to a speedy disposition of the application, the Examiner is invited to call the undersigned.

Also being filed herewith is a Petition for Extension of Time to October 17, 2005, which is the first business day after October 15, 2005, with the appropriate fee. Authorization is given to charge payment of any additional fees required, or credit any overpayment, to Deposit Acct. 13-4213. A duplicate of the Petition paper is enclosed for accounting purposes.

Reconsideration and allowance are respectfully requested.

Respectfully submitted,

PEACOCK, MYERS & ADAMS, P.C.

By:


Philip D. Askenazy, Reg. No. 56,721
Direct Dial: (505) 998-6132

Attorneys for Applicant
P.O. Box 26927
Albuquerque, New Mexico 87125-6927
Phone: (505) 998-1500
Fax: (505) 243-2542

Customer No. 005179

G:\VAMDS\Accent\911-OA Resp2.doc